IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE SIXTEENTH DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE B.PRAKASH RAO

WRIT PETITION NO : 26175 of 2001

Between:

L.Ramesh, S/o.Yadagiri,
R/o.H.No.8-78, Ghatkeshar,
Opp.Grama panchayat Office,
Ranga Reddy District.

..... PETITIONER

AND

1 The Hon'ble Addl. Industrial Tribunal-cum-Addl. Labour Court
Rep. by its Presiding Officer, Hyderabad.

2 The Depot Manager, A.P.S.R.T.C.,
Uppal Depot, Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue Writ order or direction more particularly one in the nature of Writ of Certiorari and after calling for the records in I.D.NO.217/1999, dt:9.7.2001 on the file of the Hon'ble 1st respondent in so far as not granting any relief to the petitioner is illegal arbitrary and unjust, and consequently quash the award by granting reinstatement with continuity of service, attendant benefits and back wages.

Counsel for the Petitioner: MR.G.RAVI MOHAN

Counsel for the Respondent No.1: G.P. FOR LABOUR

Counsel for the Respondent No.2: SMT.P.RAJANI REDDY, STANDING COUNSEL FOR APSRTC

The Court made the following:

ORDER

Heard Mr.G.Ravi Mohan, learned counsel for the petitioner and Smt.P.Rajani Reddy, learned Standing Counsel appearing on behalf of the 2nd respondent corporation.

The petitioner who has been working as a Conductor filed this Writ Petition *inter alia* seeking to assail the award passed in I.D.No.217of 1999, dated 09-07-2001 by the 1st respondent.

The case of the petitioner is that he was initially appointed on 26-10-1986. During the check conducted on 15-03-1999 certain irregularities were found whereupon, a chargesheet was issued on 24-04-1999, to which, the petitioner has given an explanation on 30-04-1999. Thereafter after enquiry, a show cause notice was issued on 21-07-1999, to which again the petitioner gave an explanation on
28-07-1999. Ultimately, the petitioner was terminated from service on 04-08-1999. Even the appeal filed by the petitioner against the said order was also rejected on 06-10-1999. Hence he has raised a dispute under Section 2-A (2) of the Industrial Disputes Act, 1947.

During the course of enquiry before the 1st respondent, neither side led any evidence. However, the 1st respondent has passed Nil award by going into the merits with a finding that the petitioner is responsible for the charge. Hence the Writ Petition.

The learned counsel for the petitioner submits that having regard to the fact that there is no preliminary finding in regard to the validity of the enquiry and also

consideration of the petitioner's case under Section 11 (A) of the I.D. Act, the impugned order is wholly unsustainable under the law and also the principles laid down by the Apex Court in ***The Cooper Engineering Ltd., v P.P .Mundhe*** and also this Court.

The learned Standing Counsel for the 2nd respondent sought to sustain the order on the ground that having regard to the finding of fact arrived at by the 1st respondent, it is not open for this Court to go into the merits of the case.

Having considered the submissions made and also on perusal of the record, the only question that falls for consideration is whether in the absence of any finding given as to the validity of the enquiry and non consideration of the petitioner's case under Section 11 (A) of the I.D. Act is valid?

At this juncture, there are serious disputes with regard to the check conducted and ultimately termination of service. In spite of the explanation submitted by the petitioner for the allegations made against him, he was sought to be removed. On reference, the 1st respondent has taken up the proceedings under the Industrial Disputes Act. It is now well settled that necessarily the matter has to be considered to give validity of the enquiry, gravity of offence and also quantum of punishment as contemplated under Section 11 (A) of the said Act. On other counts, there is absolutely, no evidence, nor there is any issue nor there is any point for consideration in this regard. Unfortunately, no evidence either oral or documentary was sought to be laid. In the absence of which, the 1st respondent could not have placed any reliance on any of the said evidence unless the same evidence is properly produced. In the circumstances, the matter requires re-consideration afresh. Further it is to be held that the impugned order was passed without there being any finding on these two aspects and therefore, the impugned order is liable to be set aside.

Accordingly, the Writ Petition is allowed and the impugned order is set aside. The matter is remitted back to the 1st respondent for fresh disposal in accordance with law after giving notice and opportunity to the petitioner. On

receipt of the papers, the 1st respondent shall dispose of the same within a period of three months from today.

16-02-2005

Hsd

That Rule Nisi has been made absolute as above.

Witness the Hon'ble Sri Devinder Gupta, the Chief Justice, on this Wednesday, the Sixteenth day of February, 2005.

Asst. Registrar

To

1 The Presiding Officer, Hon'ble Addl. Industrial Tribunal-cum-
Addl. Labour Court Hyderabad.

2 The Depot Manager, A.P.S.R.T.C.,
Uppal Depot, Hyderabad.

3. 2 C.Cs to G.P. for Labour, High Court buildings, Hyderabad

(OUT)

4. 2 C. D. copies